

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

v.

SANTA CRUZ CITY SCHOOL DISTRICT
AND LIVE OAK ELEMENTARY
SCHOOL DISTRICT,

OAH CASE NO. 2013050430

LIVE OAK ELEMENTARY SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2013050156

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING
MOTION TO CONTINUE

On May 3, 2013, Live Oak Elementary School District (Live Oak) filed a Request for Due Process Hearing in Office of Administrative Hearings (OAH) case number 2013050156 (First Case) naming Student.

On June 12, 2013, OAH granted Student's motion to amend his Request for Due Process Hearing in OAH case number 2013050430 (Second Case), naming Live Oak and Santa Cruz City School District (Santa Cruz).

On June 18, 2013, the parties filed a joint Motion to Consolidate the First Case with the Second Case and to continue the due process hearing dates set in both cases.

Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, the First Case and Second Case involve a common question of law or fact, specifically, the adequacy of Live Oak's assessments and their recommendations. The parties all join in the consolidation request. In addition, consolidation furthers the interests of judicial economy because of the commonality of legal and factual issues, plus documentary evidence and witnesses. Accordingly, consolidation is granted.

Continuance

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

The parties' joint motion to continue the hearing demonstrates good cause for a continuance, based on unavailability of witnesses. However, the parties' request to set the mediation date for June 27, 2013, is denied as that is within 30-day resolution session period, during which time OAH is prohibited from conducting a mediation or due process hearing unless the parties formally waive the resolution session. (34 C.F.R. § 300.510(a)(1) & (3) (2006).)¹

ORDER

1. The parties' joint Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2013050156 [First Case] and OAH Case Number 2013050430 [Second Case] are vacated.
3. The parties' Motion to Continue is granted. The Prehearing Conference in the consolidated cases shall be held on September 16, 2013, at 1:00 p.m. and the Due Process Hearing in the consolidated cases shall be held on September 23 through 26, 2013, continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ. The hearing shall begin at 9:00 a.m. and end at 5:00 p.m., except for September 23, 2013, when the hearing shall begin at 1:30 p.m., unless otherwise ordered.
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in OAH Case Number 2013050430 [Second Case].

Dated: June 19, 2013

/s/

PETER PAUL CASTILLO

Administrative Law Judge

Office of Administrative Hearings

¹ Nothing in this order prevents the parties from requesting a mediation date after the 30-day resolution session period.